



Former Latvian Central Bank Governor was lawfully arrested and held

In today's **Chamber judgment**¹ in the case of **Rimšēvičs v. Latvia** (application no. 56425/18) the European Court of Human Rights held, unanimously, that there had been:

no violation of Article 5 § 1 (right to a fair trial) of the European Convention on Human Rights.

The case concerned the arrest and approximately 46-hour detention of Mr Rimšēvičs – a former Governor of the Central Bank of Latvia and former ECB Governing Council member – on corruption-related charges in connection with a Latvian bank.

The Court found in particular that Mr Rimšēvičs's arrest and subsequent detention had been lawful as he had been held for less than the statutory period for doing so, that decision had not been arbitrary owing to the suspicion against him, and that holding him for that period had not needed to be authorised by a judge, and it had been in accordance the Criminal Procedure Law. This judgment is without prejudice to Mr Rimšēvičs's ongoing criminal trial.

The Court also rejected, by a majority, Mr Rimšēvičs's complaints under Article 5 §§ 3 and 4.

Principal facts

The applicant, Ilmārs Rimšēvičs, is a Latvian national who was born in 1965 and lives in Ropaži Municipality (Latvia).

At the time of the events in this case Mr Rimšēvičs was Governor of the Central Bank of Latvia (*Latvijas Banka*). He became a member of the General Council of the European Central Bank (ECB) following the accession of the Republic of Latvia to the European Union (EU) on 1 May 2004, then a member of the Governing Council of the ECB following the accession of the Republic of Latvia to the euro area on 1 January 2014. His term of office as Governor of the Central Bank of Latvia expired on 20 December 2019.

On 3 March 2016 the ECB withdrew the banking licence of Trasta komercbanka, a Latvian bank, over capital adequacy concerns and issues regarding its prevention-of-money-laundering and terrorism-financing protocols. That decision was upheld by the Court of Justice of the European Union (joined cases C-663/17 P, C-665/17 P and C-669/17). The bank is in the process of liquidation currently.

In 2018 the Bureau for the Prevention and Combating of Corruption (KNAB) instituted proceedings against Mr Rimšēvičs on suspicion of having accepted a bribe of about 100,000 euros (EUR) from a member of Trasta komercbanka's board.

Mr Rimšēvičs was arrested on 17 February 2018 under section 264(1)(2) of the Criminal Procedure Law and placed in detention the next day for a further 30 hours. He asked to be brought before an investigating judge immediately, to no avail. The KNAB carried out additional investigative steps including questioning him further. On 19 February 2018 he was released on bail with conditions attached including not leaving the country and the ban on holding office. The latter was

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

subsequently overturned by the Court of Justice of the European Union in its ruling on direct actions brought by the applicant and the ECB (joined cases C-202/18 and C-238/18).

He lodged several complaints and appeals with supervising prosecutors about the legality of his arrest and detention, which were dismissed. It was noted that he had been held for less than the maximum 48 hours following his arrest, and the decision to do so had been in accordance with the Criminal Procedure Law.

In July 2019 his case went to trial. A preliminary ruling was sought from the Court of Justice of the European Union and so the trial was suspended. It was resumed upon receipt of that ruling and it is currently ongoing.

There is another case pending before the European Court of Human rights (no. 31634/18) in which Mr Rimšēvičs complains of remarks made by public officials after his arrest.

Complaints, procedure and composition of the Court

Relying on Article 5 §§ 1, 3 and 4 (right to liberty and security), Mr Rimšēvičs complained that his arrest and detention had not been in accordance with the law, that he had been unable to obtain a judicial review of his detention, and that he had not been brought before a judge promptly to decide on that detention.

The application was lodged with the European Court of Human Rights on 28 November 2018.

Judgment was given by a Chamber of seven judges, composed as follows:

Síofra **O’Leary** (Ireland), *President*,
Mārtiņš **Mits** (Latvia),
Lətif **Hüseynov** (Azerbaijan),
Lado **Chanturia** (Georgia),
Ivana **Jelić** (Montenegro),
Arnfinn **Bårdsen** (Norway),
Mattias **Guyomar** (France),

and also Victor **Soloveytchik**, *Section Registrar*.

Decision of the Court

Article 5 § 1

The Court noted that Mr Rimšēvičs had been released within the 48-hour statutory period for doing so, and had been given bail immediately following his application.

It held that there had been a reasonable suspicion against Mr Rimšēvičs – as seen in the detailed arrest record – and so continuing to hold him after 18 February 2018 had not been arbitrary.

The arrest had been in accordance with the Criminal Procedure Law and so had been lawful. In accordance with domestic law there had been no obligation to have his deprivation of liberty for that period authorised by a judge. A large number of investigative activities had been carried out while he had been held.

Although Mr Rimšēvičs argued that KNAB upon arresting him had failed to assess his arguments about potential immunity as a member of the Governing Council of the ECB, the Court saw no reason to question the application of legal provisions by the national investigating authority, who appeared to have had no doubt that immunity had not applied as the alleged offences had not been carried out in connection with the duties which he carried out on behalf of an EU institution.

Given that Mr Rimšēvičs's arrest and subsequent detention had therefore been lawful, there had been no violation of Article 5 § 1 of the Convention.

This judgment is without prejudice to Mr Rimšēvičs's ongoing criminal trial.

Other articles

Concerning the inability to **access a judicial review** of Mr Rimšēvičs's arrest (Article 5 § 4), the Court held that as the complaint to the Constitutional Court and the prosecutorial review could not be considered an effective remedy, the six-month time-limit had commenced from the day that Mr Rimšēvičs had been released from detention.

The Court ruled the complaint inadmissible for having been lodged outside of that six-month time-limit then applicable (the time-limit for applications to the Court is now four months).

As for the allegation that Mr Rimšēvičs had not been **brought promptly before a judge for a decision on his detention** (Article 5 § 3), the Court noted that he had been in custody for about 46 hours. This had been compatible with the requirement to be "brought promptly".

The Court therefore rejected, by a majority, these complaints as manifestly ill-founded.

Separate opinions

Judges O'Leary, Jelić and Guyomar expressed a partly concurring and partly dissenting opinion.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.